

TO: State Directors
Rural Development

FROM: Arthur A. Garcia
Administrator
Rural Housing Service

(Signed Arthur A. Garcia)

SUBJECT: Reamortizing Multi-Family Housing Loans

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify administrative policies for reamortizing Multi-Family Housing (MFH) loans that have experienced serious operating difficulties requiring special servicing actions. The intended outcome is to ensure consistency in reamortizing loans and provide incentives for borrowers to operate successfully following the reamortization.

COMPARISON WITH PREVIOUS AN'S:

This AN reissues the guidance provided in AN NO. 3263 (1965-B) dated July 16, 1996.

IMPLEMENTATION RESPONSIBILITIES:

In servicing accounts experiencing serious operating difficulties, the first priority is to resolve those problems that have caused the difficulties, and then to restructure the account to the extent necessary to ensure successful operation in the future. This may involve reamortizing the loan. State Directors should ensure the MFH program is administered in accordance with section 1965.70 of RD Instruction 1965-B and the following policies regarding reamortizations:

- A. The decision to reamortize must include the same decisions that are made in the process of making a new loan. They include the following:
 - 1. Eligibility – The servicing official must document that the ownership is a viable, active, financially sound entity. The owners must have or obtain management acceptable to the servicing official.

EXPIRATION DATE: April 30, 2003

FILING INSTRUCTIONS:
Preceding RD
Instruction 1965-B

2. Need – The servicing official must fully document that there is a need for the property prior to reamortization.
 3. Site – The servicing official must fully document that the site is in a residential location that is free from environmental concerns.
 4. Building – The servicing official must document via inspection that the building is or will be placed in operable condition for the intended program use as a part of the reamortization.
- B. Reamortization should be used to remove a delinquency and consolidate protective advances, if applicable, in conjunction with a workout plan when the approving official has determined that corrective action has been accomplished, and the borrower can realistically carry out the objectives of the loan following the reamortization.
- C. To "carry out the objectives of the loan" include:
1. Ensuring the borrower is operating on a financially sound basis and has adequate operating income to:
 - a. Repay the loan at the reamortized rate;
 - b. Fund reserves;
 - c. Fund tax and insurance accounts;
 - d. Pay operation and maintenance expenses as they become due; and
 - e. Maintain an acceptable level of occupancy.
 2. Ensuring that modest, decent, safe and sanitary housing is provided by properly maintaining the property.
 3. Ensuring that the borrower is providing affordable housing opportunities and services to eligible residents.
 4. Ensuring that the borrower is complying with Agency regulations. This includes:
 - a. Providing financial information to the Agency in a timely manner; and
 - b. Maintaining required records needed to ensure the eligibility of residents.

If the objectives outlined in item C above cannot be achieved, liquidation action should be initiated in accordance with section 1965.85 of RD Instruction 1965-B.

- D. The Rural Development approval official should consider extending the term to the maximum allowed by regulations in order to reduce market and basic rents and ensure adequate cash flow to meet operating costs. If the term is extended, title work would be necessary to ascertain whether other liens have been filed between the filing of the last Rural Development mortgage and the date of the reamortization. A new appraisal is required if the term is being extended for more than 5 years. Subject to OGC concurrence, new security instruments may need to be filed.
- E. Special Market Rent (SMR) budgets may be used in connection with reamortizations to obtain or maintain an acceptable level of occupancy. However, consideration should be given to extending the term before approving the SMR budget.
- F. Improper or unauthorized use of reserve funds should be serviced in accordance with the principles set out in RD Instruction 1951-N.
- G. Reserve accounts not at authorized levels prior to the reamortization due to reasons other than those in preceding paragraph F should be handled in the following manner:
 - 1. The loan agreement or resolution should be modified (or a new agreement or resolution executed) that bases the new amount of the annual reserve requirement and fully funded amount on the amount of the reamortization (i.e., fully funded amount and the annual requirement is one-tenth of the fully funded amount).
 - 2. Reserve requirements may be established at a higher level than the amount required for the reamortization to allow for identified capital expenditures if the budget and the local market will support a higher level.
 - 3. Since the annual requirement and fully funded amount is re-established based on the amount of the reamortization, the reserve account will begin with a new base. Any underfunded reserves prior to the reamortization will no longer be considered underfunded.
 - 4. When a newly established annual requirement and fully funded requirement are based on the reamortization amount, the borrower may receive a return on investment if all other conditions for receiving a return have been met.
 - 5. Agency officials may, with the advice and guidance of OGC, incorporate the policies outlined in this AN for accounts where all promissory notes within the project have already been reamortized.

If additional discussion is needed on this matter, contact Multi-family Housing Portfolio Management Division at (202) 720-1600.